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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,289	05/24/2006	Doron Tam	66599-0005	5837
10291	7590	07/07/2010	EXAMINER	
RADER, FISHMAN & GRAUER PLLC			RANDALL, JR., KELVIN L.	
39533 WOODWARD AVENUE				
SUITE 140			ART UNIT	PAPER NUMBER
BLOOMFIELD HILLS, MI 48304-0610			3651	
			MAIL DATE	DELIVERY MODE
			07/07/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,289	<b>Applicant(s)</b> TAM ET AL.
	<b>Examiner</b> Kelvin L. Randall, JR.	<b>Art Unit</b> 3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 10 May 2010.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-29 is/are pending in the application.

4a) Of the above claim(s) 2-8, 12-18 and 26 is/are withdrawn from consideration.

5) Claim(s) 29 is/are allowed.

6) Claim(s) 1, 10, 11, 19-25, and 28 is/are rejected.

7) Claim(s) 9 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/06)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 10 recites the limitation "said bag retaining element". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 10, 19, 20-23 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adolf Lundberg (1,312,449 – hereinafter Lundberg) in view of Schlumpf and Brenner.

Re Claim 1:

Lundberg teaches a plate (12) vertically mounted on a frame (at 1), said plate (12) defining a planar supporting surface and an opposite planar surface; a rotatable shaft mounted on top of said frame; at least one roller (13) non-rotatably affixed to said shaft and arranged to engage a product nearmost said planar bag-supporting surface (see Fig. 1 - Examiner notes that the rollers are located on pins, thus, shafts. Examiner further notes that the roller is located on the top of said frame in relation to what would be the bottom (the lowermost end)); means for rotating said shaft whereby said product is shifted over said at least one roller (13) (page 2 lines 4-7); wherein the stack of products is held against said planar bag-supporting surface and when said rotatable shaft rotates, said nearmost product is shifted over said at least one roller and descends down along opposite planar surface side of said plate (12), said plate being disposed between said dispensed nearmost product and the stack of products (see Fig. 1), but fails to specifically teach a bag detector coupled to the means for rotating said shaft, such that when the bag detector detects the presence of a bag, the rotatable shaft stops rotating.

Schlumpf teaches bags (col. 1 lines 20-25). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Lundberg with the bags of Schlumpf because they are within the same art and are commonly recognized by one of ordinary skill in the art to be interchangeable and commonly used one in place of the other.

Brenner teaches a bag detector (42) coupled to a means for rotating a shaft, such that when the bag detector detects the presence of a bag, the rotatable shaft stops rotating (Examiner notes the shaft as engaging wheel (34) through rotatably journaled bearing (33)) after a single bag has been dispensed (see col. 4 lines 15-31 and col. 5 lines 40-52). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Lundberg with that of Schlumpf and the bag detector of Brenner, because they are in the same art and one of ordinary skill in the art in looking for a transition from a manually operated dispenser to a coin operate automatic dispenser would have seen the combination of the two and the use of a sensor as a means as obvious within the dispensing art.

Further Re Claim 10:

Lundberg teaches wherein a bag retaining element (10) includes a bag-retaining bar (10) for engaging and retaining a stack of sheets against said at least one roller (13) before and during dispensing (see Fig. 1).

Further Re Claim 19:

Lundberg teaches an elongate guide (14) mounted adjacent said rollers to guide dispensed bags away from the rollers (see Fig. 1).

Re Claims 20-23:

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Lundberg teaches holding a stack of products against at least one roller (13) non-rotatably affixed to a rotatable shaft coupled to a plate (12) mounted on a frame (housing) and defining a planar product-supporting surface and an opposite planar surface; dispensing one product from said stack of products nearmost said planar product-supporting surface to said opposite planar surface of said plate (12) by rotating said rotatable shaft so as to shift said nearmost one product over said at least one roller (13) such that said nearmost one product descends down along said opposite planar surface (see Fig. 1), but fails to teach bags and automatically stopping.

Schlumpf teaches bags (col. 1 lines 20-25). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Lundberg with the bags of Schlumpf because they are within the same art and are commonly recognized by one of ordinary skill in the art to be interchangeable and commonly used one in place of the other.

Brenner teaches a bag detector (42) coupled to a means for rotating a shaft, such that when the bag detector detects the presence of a bag, the rotatable shaft stops rotating (Examiner notes the shaft as engaging wheel (34) through rotatably journaled bearing (33)) after a single bag has been dispensed (see col. 4 lines 15-31 and col. 5 lines 40-52). Re Claim 22: Brenner teaches drivingly coupling a motor (34) to said rotatable shaft (100), such that actuation of said motor cause said rotatable shaft to rotate; and causing said at least one roller (32) to engage one bag in said stack of bags, such that rotation of said rotatable shaft causes said at least one roller to remove said bag from

said stack of bags (col. 4 lines 15-53). Re Claim 23: Brenner teaches wherein said step of automatically stopping includes automatically stopping said motor in response to dispensing a single bag from the stack (col. 5 lines 47-53). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Lundberg with that of Schlumpf and the bag detector of Brenner, because they are in the same art and one of ordinary skill in the art in looking for a transition from a manually operated dispenser to a coin operate automatic dispenser would have seen the combination of the two and the use of a sensor as a means as obvious within the dispensing art.

Further Re Claim 28:

Lundberg teaches a retaining element having a 1<sup>st</sup> end pivotally connected to the frame and a second end, and the retaining element being spring biased towards a closed orientation (see Fig. 1).

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lundberg in view of Schlumpf and Brenner and further in view of Benno Vanjo (4,043,484 – hereinafter Vanjo).

Re Claim 11:

Lundberg in view of Schlumpf and Brenner teaches the device of claim 10, but fails to teach wherein said bag-retaining bar is coupled to an arm pivotally coupled to said plate.

Vanjo teaches a bag-retaining bar (at 33) is coupled to an arm (at 32) pivotally coupled to a plate (Examiner notes that through the relation of a common member (side wall) Vanjo's arm is coupled to plate member (at 25')).

8. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundberg in view of Schlumpf and Brenner and further in view of Coleman.

Re Claims 24 and 25:

Lundberg in view of Schlumpf and Brenner teaches the device of claim 20, but fails to teach wherein at least one roller is non-rotatably affixed to a second rotatable shaft, said second shaft is mounted parallel to said rotatable shaft, said rotatable shaft is disposed between said second rotatable shaft and said one bag from said stack of bags, and said at least one roller on said rotatable shaft is coupled to said at least one roller on said second shaft, whereby rotation of said rotatable shaft causes concomitant rotation of said second shaft.

Coleman further in view teaches a second rotatable shaft (75) mounted parallel to a rotatable shaft (73), said rotatable shaft (73) is disposed between said second rotatable

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shaft (75) and said one bag from said stack of bags (see Fig. 7); at least one roller (74) non-rotatably affixed to said second shaft (75); wherein each roller on said rotatable shaft (73) is coupled to a roller on said second shaft (75) (see 82 of Fig. 7), whereby rotation of said rotatable shaft causes concomitant rotation of said second shaft (see Fig. 7 and paragraphs [0055 and 0056]). Re Claim 25: Coleman teaches drivingly coupling a manual (86) rotation means to said rotatable shaft, such that actuation of said manual rotation means rotates said shaft (see Fig. 7). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Lundberg in view of Schlumpf and Brenner with Coleman's disclosure because they are within the same art one of ordinary skill in the art looking for a commercial or public use dispenser would see the combination as a way to increase the efficiency of the dispenser.

***Allowable Subject Matter***

8. Claim 29 is allowed.
9. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelvin L. Randall, JR. whose telephone number is (571)270-5373. The examiner can normally be reached on Monday-Friday 8:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571)272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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